

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Brockunier, et al.

Group No.: 1609

U.S. Serial No.: 10/508,898

Filed: September 23, 2004

Examiner: Sun Jae Y. Loewe

For: BETA-AMINO HETEROCYCLIC DIPEPTIDYL PEPTIDASE  
INHIBITORS FOR THE TREATMENT OR PREVENTION OF  
DIABETES

08/14/2007 AAHRADI 00000022 132755 10508898  
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBVIATE  
A DOUBLE PATENTING REJECTION**  
[37 CFR 1.321]

I, Catherine D. Fitch, residing at  
16 Woods Hole Road, Cranford, New Jersey 07016, am a representative  
of the assignee identified below, empowered to act on its behalf, pursuant to attached  
Corporate Resolution No. 5, dated 04/24/2007.

The assignee, Merck & Co., Inc., certifies  
that it is the assignee of the entire right, title and interest in the above-identified  
patent application by virtue of an Assignment from the inventor(s) in the aforesaid  
patent application, which was

- ☐ recorded in the United States Patent & Trademark Office on Reel(s) \_\_\_\_\_  
Frame(s) \_\_\_\_\_ on \_\_\_\_\_,
- ☐ was forwarded for recording on \_\_\_\_\_, with a copy of the recordation form  
and assignment attached hereto, or
- ☒ is being concurrently forwarded for recording under separate cover, with a copy of the  
recordation form and assignment attached hereto.

The aforesaid assignment establishes the ownership in the assignee of the above-identified  
application pursuant to 37 CFR 3.73(b).

The undersigned has reviewed all of the evidentiary documents in the chain of title of the  
above-identified patent application, and the undersigned certifies that, to the best of the  
undersigned's knowledge and belief, title is in the assignee named above.

I hereby disclaim the terminal part of the statutory term of any patent granted on the  
above-identified application, which would extend beyond the expiration date of the full  
statutory term of:

- ☒ United States Patent No. 6,699,871, or as presently shortened by any terminal  
disclaimer,
- ☐ Any patent granted on application serial number \_\_\_\_\_,

and hereby agree that any patent so granted on the above-identified application shall be enforceable on, for and during such periods that the legal title to said patent shall be the same as the legal title to:

☒ United States Patent No. 6,699,871 ,

☐ Any patent granted on application serial number \_\_\_\_\_ ,

this agreement to run with any patent granted on the above-identified application and to be binding upon the grantor, its successors or assigns.

Petitioner does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory term of:

☒ United States Patent No. 6,699,871 , or as presently shortened by any terminal disclaimer,

☐ Any patent granted on application serial number \_\_\_\_\_ ,

in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is otherwise terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The Commissioner is requested to charge Account No. 13-2755 the sum of \$130.00 and any fee deficiency required by this paper. A duplicate of this disclaimer is attached.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.



Disclaimant Catherine D. Fitch

Managing Counsel, Patents

Title

Merck & Co., Inc.  
Patent Dept., RY60-30  
P.O. Box 2000

Rahway, New Jersey 07065-0907

Telephone No. (732) 594-4283

In Duplicate  
Attachs.

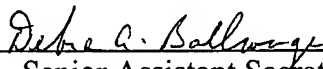
Date: 08/10/2007

**MERCK & CO. INC.**

**CERTIFICATION**

I, Debra A. Bollwage, Senior Assistant Secretary of Merck & Co., Inc. (the "Company"), a corporation duly organized and existing under the laws of the State of New Jersey, do hereby certify that the attached, presently in full force and effect, is a true and correct copy of General Corporate Resolution #5, Patent Matters, as amended by Unanimous Written Consent of the Board of Directors of said Company on April 24, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my signature and affixed the seal of the Company this 27<sup>th</sup> day of April 2007.

  
\_\_\_\_\_  
Senior Assistant Secretary

(SEAL)

**General Corporate Resolution #5**

**PATENT MATTERS**

RESOLVED, that any of the following:

Richard T. Clark-Chairman, Chief Executive Officer and President  
Kenneth C. Frazier-Executive Vice President and General Counsel  
Joseph F. DiPrima-Vice President and Assistant General Counsel  
Paul D. Matukaitis-Vice President and Assistant General Counsel  
Edward W. Murray-Managing Counsel, IP Litigation  
Gerard Devlin-Counsel, IP Litigation  
Valerie J. Camara-Managing Counsel, Patents  
Mark R. Daniel-Managing Counsel, Patents  
Catherine D. Fitch-Managing Counsel, Patents  
Sheldon O. Heber-Managing Counsel, Patents  
William Krovatin-Managing Counsel, Patents  
David A. Muthard-Managing Counsel, Patents  
Anthony Rollins-Managing Counsel, European Patents  
Edward M. Yoshida-Managing Counsel, Rosetta Inpharmatics  
Charles M. Caruso-Counsel, International  
Peter Haeberli-Assistant Counsel, Sirna Therapeutics, Inc.  
John Oksinski-Executive Director, Banyu  
Kenichi Osawa-Senior Director, Banyu Patent and Trademark Group  
Donna L. Margiotto-Senior Manager, Patent Administration

are authorized to execute and to revoke on behalf of Merck & Co., Inc. and its affiliates (including subsidiaries) the following documents relating to patent matters:

Powers of attorney as fully in law as may be necessary and proper in connection with the acquisition, registration, maintenance and enforcement of patents and applications for patents, including powers of attorney relating to the prosecution or defense of patent rights before courts of law or other governmental tribunals, agencies or departments; affidavits and declarations; and any other documents which are necessary and proper for the acquisition, registration, maintenance, litigation and protection of patents.